

**EXHIBIT "C"**

**PICARD AFFIDAVIT**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Substantively  
Consolidated SIPA Liquidation of Bernard L. Madoff  
Investment Securities LLC and Bernard L. Madoff,

Plaintiff,

v.

J. EZRA MERKIN, GABRIEL CAPITAL, L.P.,  
ARIEL FUND LTD., ASCOT PARTNERS, L.P.,  
GABRIEL CAPITAL CORPORATION, ASCOT  
FUND

Defendants.

No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 09-01182 (SMB)

**AFFIDAVIT OF IRVING H. PICARD, TRUSTEE, IN SUPPORT OF  
MOTION FOR ENTRY OF ORDER PURSUANT TO SECTION 105(a) OF THE  
BANKRUPTCY CODE AND RULES 2002 AND 9019 OF THE FEDERAL  
RULES OF BANKRUPTCY PROCEDURE APPROVING  
SETTLEMENT AGREEMENT BETWEEN THE TRUSTEE AND GABRIEL CAPITAL,  
L.P., ARIEL FUND LTD., AND BART M. SCHWARTZ AS THE APPOINTED  
RECEIVER OF GABRIEL CAPITAL, L.P. AND ARIEL FUND LTD.**

STATE OF NEW YORK     )  
                                      )  
COUNTY OF NEW YORK    )

Irving H. Picard, being duly sworn, hereby attests as follows:

1. I am the trustee for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC (“BLMIS”) and Bernard L. Madoff (“Madoff,” and together with BLMIS, collectively, the “Debtors”). I am familiar with the affairs of the Debtors. I respectfully submit this Affidavit in support of the motion (the “Motion”) seeking entry of an order, pursuant to section 105(a) of the United States Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.*, and Rules 2002 and 9019 of the Federal Rules of Bankruptcy Procedure, approving an agreement (the “Agreement”) by and between the Trustee, on the one hand, and Gabriel Capital, L.P. (“Gabriel”), Ariel Fund Limited (“Ariel”), and Bart M. Schwartz, as Receiver of Ariel and Gabriel (“Receiver”), on the other hand.

2. I make this Affidavit based upon my own personal knowledge or upon information that I believe to be true.

3. All capitalized terms not defined herein have the meaning ascribed to them in the Motion.

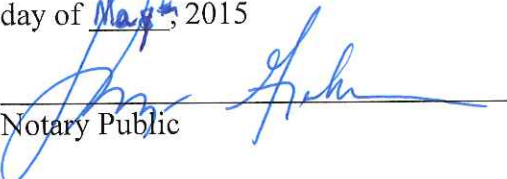
4. For reasons noted in this paragraph and in the Motion, I believe that the terms of the Agreement fall well above the lowest point in the range of reasonableness and, accordingly, the Agreement should be approved by this Court. The Agreement furthers the interest of BLMIS customers by recovering 100% of the fraudulent transfers aggregating thirty-five million, three hundred ninety nine thousand, seven hundred forty two dollars (\$35,399,742.00) sought from Gabriel and Ariel. The Trustee will allow the Gabriel Customer Claim to the extent of Gabriel’s net equity, plus 85% of the amount of the Settlement Payment. The Trustee will allow the Ariel

Customer Claim to the extent of Ariel's net equity, plus 85% of the amount of the Settlement Payment. The Agreement also resolves all issues regarding the asserted and unasserted claims against Gabriel and Ariel without the need for protracted, costly, and uncertain litigation. The Agreement also greatly furthers the interests of the customers of BLMIS by adding thirty-five million, three hundred ninety nine thousand, seven hundred forty two dollars (\$35,399,742.00) to the Fund of Customer Property immediately. In addition, the settlement secures the agreement of Gabriel and Ariel to agree to cooperate with the Trustee should the Trustee make reasonable requests related to his pursuit of claims against the non-settling defendants in this adversary proceeding

5. Given the potential complexities involved in proceeding with further litigation, I have determined, in my business judgment, that the Agreement represents a fair compromise of the claims against Gabriel and Ariel.

  
\_\_\_\_\_  
IRVING H. PICARD

Sworn to before me this 28<sup>th</sup>  
day of May, 2015

  
\_\_\_\_\_  
Notary Public

SONYA M. GRAHAM  
Notary Public, State of New York  
No. 01GR6133214  
Qualified in Westchester County  
Commission Expires: 9/12/2017